

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

|   |                                   |  |
|---|-----------------------------------|--|
| <b>NOTICE OF APPEAL FROM THE EXAMINER TO<br/>THE BOARD OF PATENT APPEALS AND INTERFERENCES</b>                      |                                   | Docket Number (Optional)<br><b>H6808.0040/P040</b> |
| In re Application of<br><b>Yoshihiro Kimura et al.</b>  |                                   |  |
| Application Number<br><b>10/779,749-Conf. #2045</b>   | Filed<br><b>February 18, 2004</b> |  |
| For <b>Method of determining the concavity and convexity on sample surface, and charged particle beam apparatus</b> |                                   |  |
| Art Unit<br><b>2881</b>   | Examiner<br><b>P. A. Johnston</b> |  |

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 540.00

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_

☐ A check in the amount of the fee is enclosed.

☒ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 04-1073.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

**WARNING: INFORMATION ON THIS FORM MAY BECOME PUBLIC. CREDIT CARD INFORMATION SHOULD NOT BE INCLUDED ON THIS FORM. PROVIDE CREDIT CARD INFORMATION AND AUTHORIZATION ON PTO-2038.**

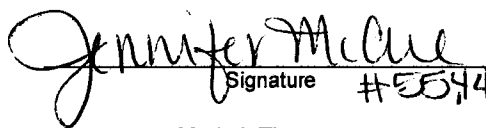
I am the

☐ applicant /inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 33,082

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

  
 Signature **#55440**  
 Mark J. Thronson  
 Typed or printed name  
 (202) 420-4742  
 Telephone number  
 June 17, 2009  
 Date

**NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.**

☐ \*Total of 1 forms are submitted.